

REMARKS

Reconsideration and withdrawal of the rejections of the application respectfully requested in view of the remarks herewith, which place the application in condition for allowance.

I. Status of Claims and Formal Matters

Claims 1-10 are pending in this application. Withdrawn claims 1-3, 7, 8, and 10 have been cancelled as being drawn to a non-elected invention.

The Examiner is thanked for withdrawing all previous rejections.

It is submitted that the claims, herewith and as originally presented, are patentably distinct over the prior art cited in the Office Action, and that these claims were in full compliance with the requirements of 35 U.S.C. § 112.

II. The Double Patenting Rejections are Overcome

Claims 4-6 and 9 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-4 and 6 of co-pending Application No. 10/570,136 (Publication No. US 2007/0072850A1). Although the claims are not identical, they are allegedly obvious as being drawn to the same art recognized subject matter.

Concurrently filed herewith for the purposes of expediting prosecution is a Terminal Disclaimer as to the co-pending Application No. 10/570,136.

Accordingly, reconsideration and withdrawal of the double patenting rejection is respectfully requested.

REQUEST FOR INTERVIEW

If any issue remains as an impediment to allowance, a further interview with the Examiner and SPE are respectfully requested; and, the Examiner is additionally requested to contact the undersigned to arrange a mutually convenient time and manner for such an interview.

CONCLUSION

In view of the amendments and herewith, the application is believed to be in condition for allowance. Favorable reconsideration of the application and prompt issuance of a Notice of Allowance are earnestly solicited. The undersigned looks forward to hearing favorably from the Examiner at an early date, and, the Examiner is invited to telephonically contact the undersigned to advance prosecution.

Respectfully submitted,
MERIAL LTD.
FROMMER LAWRENCE & HAUG LLP

By:



Judy Jarecki-Black, Ph.D.
Reg. No. 44,170
Tel. No. (678) 638-3805
Fax No. (678) 638-3350
Thomas J. Kowalski
Reg. No. 32,147
Deborah L. Lu, Ph.D.
Reg. No. 50,940
Tel. No. (212) 588-0800
Fax No. (212) 588-0500